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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,888	03/13/2001	Larkin Hill Lowrey	12170-005001	1339

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EXAMINER

BROADHEAD, BRIAN J

ART UNIT PAPER NUMBER

3661

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/804,888

Applicant(s)

LOWREY ET AL.

Examiner

Brian J. Broadhead

Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,7-16,20-22 and 27-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,7-16,20-22 and 27-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-3, 7-16, 20-22, and 27-34 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 through 67, and 69 of copending Application No. 10/614665. Although the conflicting claims are not identical, they are not patentably distinct from each other because they use some different terms that are obvious replacements for each other.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1-3, 7-16, 20-22, and 27-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lange et al. 6295492, in view of Shetty et al., 5808907.

3. As per claims 1, 2, 7 and 20, 31, 32, 33, 34, Lang et al. disclose generating a data packet from the vehicle using a wireless appliance, the data packet containing numerical diagnostic data from a computer in the vehicle on lines 30-33, on column 3; transmitting the data packet over an air link with the wireless appliance so that the data packet passes through a network and to a host computer system on lines 30-33, on column 3; processing the data packet with the host computer system to generate numerical diagnostic data on lines 35-40, on column 3; and displaying the numerical diagnostic data on a web site hosed on the internet, the web site comprising a series of pages corresponding to individual vehicles and a series of pages corresponding to a group of vehicles on lines 60-65, on column 4; having multiple vehicles transmitting data packets on lines 9-10, on column 3; extracting numerical data from the data packet on lines 11-15, on column 3; the processing step further includes generating a set of data that comprises an alphanumeric text message on lines 35-40, on column 3; generating and displaying a set of data that comprises an alphanumeric text message in figure 2; and the vehicle parameter is a trouble code and the text message describes the active or pending diagnostic trouble code on lines 25-30, on column 3; the web site implementing a first web interface having a first login and dedicated to presenting information about said vehicle, and a second web interface having a second login and presenting information about a group of vehicle including said vehicle on lines 38-45, on column 2. Lange et al. do not disclose the step of sending an electronic mail message that comprises all or part of the alphanumeric text and with the host computer comparing the data to at least one data value to generate diagnostic data or location

information. Shetty et al. teaches of sending an electronic mail message that comprises all or part of the alphanumeric text on lines 33-50, on column 2; and with the host computer comparing the data to at least one data value to generate diagnostic data or location information on lines 28-37, on column 2. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the email and alerts of Shetty et al. in the invention of Lange et al. because such modification would provide a warning manager that provide a method for providing information relating to a mobile machine.

4. As per claims 3 and 22, Lang et al. disclose wherein the transmitted data contains one or more vehicle parameters and wherein the processing step further includes processing at least one of the vehicle parameters with a database software on lines 39-41, on column 4.

5. As per claim 8, Lange et al. disclose the alphanumeric text message comprises a 5, 6, or 7 digit code that describes the active or pending diagnostic trouble code on lines 15-17, on column 3. OBD II is a standard based on 5 digit codes.

6. As per claim 9, Lange et al. disclose the numerical data generated by the vehicle is from a sensor in the vehicle on lines 25-30, on column 3.

7. As per claim 10, Lange et al. disclose the numerical data is vehicle speed in figure 2.

8. As per claim 11, Lange et al. disclose the processing step further comprises processing at least one numerical parameter with a mathematical equation on lines 37-41, on column 2.

9. As per claims 12, 13, 14, and 15, Lange et al. disclose the processing step further comprises comparing and displaying at least one numerical parameter with at least one numerical parameter generated at an earlier point in time on line 2, on column 3.
10. As per claim 16, Lange et al. disclose the numerical value is a mileage value, the alphanumeric text message includes one parameter from the numerical data, and displaying the alphanumeric text message on the web page in figure 2.
11. As per claim 21, Lange et al. disclose extracting numerical data from the first and second data in figure 2.
12. As per claims 27 and 28, Lange et al. disclose the web site comprises a login page and fields for entering a multiple user name and password on line 17, on column 4.
13. As per claims 29 and 30, Lange et al. disclose the first user corresponds to a vehicle owner and a second user name corresponds to a corporation with a fleet of vehicles on line 5, on column 3.

Response to Arguments

14. Applicant's arguments filed 12-8-03 have been fully considered but they are not persuasive. Adding the limitation of comparing the data to another data value to generate diagnostic of location information does not overcome the prior art. Shetty et al. teaches using data values in a knowledge database to determine when to send alerts. The rejection has been updated to cite the parts of Shetty et al. that teach the comparing.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Broadhead whose telephone number is 703-308-9033. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William A. Cuchlinski can be reached on 703-308-3873. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

BJB
March 8, 2004


WILLIAM A. CUCHLINSKI, JR.
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